

KENTUCKY OPEN RECORDS LAW

This summary is intended to acquaint board members with Kentucky open records law and should not be relied on as legal advice. Regents and trustees should consult their boards' attorneys on any specific matter.

The Kentucky open records law – *Kentucky Revised Statutes 61.870 to 61.884* – sets forth the conditions under which the public has access to public documents.

The term “public record” is defined as “all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, or retained by a public agency.” *KRS 61.870(2)*

The law – *KRS 61.870(1)* – defines an agency broadly and includes:

- “Every state or local government officer
- Every state or local government department, division, bureau, board, commission, and authority
- Every state or local government agency, including the policy-making board of an institution, created by or pursuant to state or local statute, executive order, ordinance, resolution, or legislative act
- Any body which derives at least 25 percent of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds
- Any entity where the majority of its governing board is appointed by a public agency; by a member or employee of such a public agency; or by any combination thereof
- Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency”

The exceptions – *KRS 61.878(1)* – include:

- “Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy
 - Records confidentially disclosed to an agency and compiled and maintained for scientific research . . .
 - The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired . . .
 - Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given . . .
 - Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication
- (over)
- Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency
 - Preliminary recommendations and preliminary memoranda in which opinions are expressed or policies formulated or recommended
 - All public records or information the disclosure of which is prohibited by federal law or regulation
 - Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly”

All public records shall be open for inspection except where noted in the law. Agencies may require written requests. Under most circumstances, agencies must make public records available within three days. If the requested record cannot be produced within three days, the agency must explain in detail. Agencies may deny

requests if unreasonably burdensome or if agencies, citing clear and convincing evidence, have reason to think repeated requests are intended to disrupt the agencies' other essential functions. People inspecting public records have the right to make or obtain a copy.